



REGULAR MEETING MINUTES  
PLANNING & ZONING COMMISSION  
CITY OF LANCASTER, TEXAS  
TUESDAY, MARCH 1, 2016



**CALL TO ORDER:**

Vice Chair, Prothro called the meeting to order at 7:01 p.m. on March 1, 2016.

**COMMISSIONERS**

LAWRENCE PROTHRO, CHAIR  
ISABEL AGUILAR  
RACHEL HILL  
CYNTHIA JOHNSON  
MARVIN EARLE - ABSENT

**CITY STAFF**

RONA STRINGFELLOW  
DEBORAH BUNTON  
DAVID DODD

ASSISTANT CITY MANAGER  
DEVELOPMENT SERVICES  
CITY ATTORNEY

**CITIZENS COMMENTS:** (At this time citizens will be allowed to speak only on matters contained on the Planning & Zoning Commission agenda).

**NO COMMENTS WERE MADE**

**ACTION ITEM**

1. Approval of minutes from the Planning & Zoning Commission held February 2, 2016.

**A MOTION WAS MADE BY COMMISSIONER AGUILAR SECONDED BY COMMISSIONER HILL TO APPROVE THE MINUTES**

**AYES: PROTHRO, HILL, AGUILAR, JOHNSON**

**NAYS:**

2. Z16-01 – Conduct a public hearing and consider an amendment to the City of Lancaster's Comprehensive Plan's Future land use map Agricultural uses to Light Industrial uses and a re-zoning request from AO-Agricultural Open Space to LI- Light Industrial. The subject property is located on the west side of North Houston School Road approximately 160 feet north of the Intersection of North Houston School Road and Cedardale Road further described as a 1 acre tract of land recorded in Volume 2730 Page 577, and the remainder of a 0.63 acre tract of land in Volume 72171, Lancaster Dallas County, Texas. The property is more particularly described as 3335 Houston School Road.

Assistant City Manager, Rona Stringfellow presented the staff report.

The property is generally located on the North side of Houston School Road approximately 160 feet north of the intersection of North Houston School Road and Cedardale Road and a Zoning map was provided to the Commission members. The area is designated as being suitable for Light Industrial and Commercial highway uses and for some reason this tract of land was a leave out piece yet everything else was zoned appropriately.

Staff noticed this in the Focus Daily news and to date has received no responses either in favor or against this item. This item is located in an area where there is significant development in the City.

East of the subject property, the BMW site formerly Prologis (now Park 20/35) is currently built; to the north is where the property that is developing a 900,000 square foot Industrial site; to the west of that will be an industrial site with two, 200,000 square foot buildings. This area is extremely busy and this piece is being zoned to the Light Industrial for another site in this area.

This request is twofold because the City Attorney advised us that we have to amend the Comprehensive Plan which we are currently involved in city wide, and so as part of the request we are amending the Comprehensive Plan to show that this land is suitable for Light Industrial land use and subsequent rezoning. The property is currently undeveloped.

Vice Chair Prothro asked is this a part of the upcoming Comprehensive Plan?

ACM Stringfellow stated that this area was a part of the first areas studied and is part of the Northwest quadrant discussed at a Joint work session with the Council. The area is suitable for Light Industrial and the activity that is going on in this area at the present time and it matches both current and future uses for this site.

Vice Chair Prothro asked was this an oversight? Ms. Stringfellow stated it appears to have been part of a larger site that was acquired through eminent domain and this piece was left over.

Commissioner Aguilar asked if there was a house on the site.

Ms. Stringfellow stated that the house could have been on it at one time, as depicted on the survey that was submitted but is undeveloped as of today.

CA David Dodd, stated that the change in zoning and the Comprehensive Plan is the focus of this discussion.

Vice Chair, Prothro asked if there are no additional questions for staff and at this time, the applicant may come forward and state your name and address for the record.

Robert Allen, First Industrial, 2475 Merritt Drive, Garland, Texas; stated that as Ms. Stringfellow had mentioned earlier this is 1.6 acres of 26 acres and our plan is to develop this area and will be something similar to the Warehouse facility that was already in the area. First Industrial is a publicly traded company similar to Prologis with 65 million square feet of property in the US market and 6 million square feet in the DFW market. Projects recently completed are Dr. Pepper Snapple Group, Taylor Farms and a couple of projects under development in the Arlington area. He provided some examples of recent developments to the Commission.

Vice Chair Prothro asked if there were any other persons wishing to speak in favor of this case. I give the floor to those wishing to speak against the case.

Frank Mejia, 1500 West Main Street, Lancaster Texas, spoke in favor of the item stating that the Planning and Zoning Commission should approve this item. This would allow this company to come in and build some nice buildings in this area.

Vice Chair, Prothro stated if there are no more persons wishing to speak either in favor or in opposition to this case; the Vice Chair will entertain a motion to close the public hearing.

**A MOTION WAS MADE BY COMMISSIONER JOHNSON SECONDED BY COMMISSIONER AGUILAR TO CLOSE THE PUBLIC HEARING.**

**AYES: PROTHRO, HILL, AGUILAR, JOHNSON**

**NAYS:**

**A MOTION WAS MADE BY COMMISSIONER HILL AND SECONDED BY COMMISSIONER AGUILAR TO APPROVE CASE Z16-01 IN ACCORDANCE WITH STAFF RECOMMENDATIONS.**

**AYES: PROTHRO, HILL, AGUILAR, JOHNSON**

**NAYS:**

**THE MOTION CARRIED UNANIMOUSLY.**

3. Z16-02 – Conduct a public hearing and consider an amendment to the City of Lancaster's Comprehensive Plans Future Land Use map Light Industrial uses to low density Residential uses and a rezoning request from LI-Light Industrial to SF4-Single Family Residential. The subject property is located on the east side of Katy Street just south of the intersection of Katy Street and East Pleasant Run Road and further described as 1102 Katy Street, Lancaster, Dallas County, Texas.

ACM Stringfellow presented the staff report. This is a request to amend the City of Lancaster's Comprehensive Plan Future Land Use plan as well as rezoning to Light Industrial. The property is currently zoned as Light Industrial and all the adjacent properties surrounding the subject properties is zoned as Light Industrial. The Comprehensive Plan identifies this site suitable for Light Industrial uses that are the current Comprehensive Plan as well as the upcoming Comprehensive Plan that will be brought before this Commission as well as City Council. This item was noticed on the February 19<sup>th</sup> Daily Focus Newspaper and forms were sent out to property owners and we received six (6) responses that were in opposition of the rezoning request and that was included in your packets. Staff provided a zoning map on this case, as well.

An error occurred on the property owner notices and staff wanted to acknowledge on the record that the proposed use is for single family and not a radio station ( as stated in the notice). The notices still had the location and address correct.

The subject property is about 15,700 square feet of land and the applicant is requesting to construct a single family detached home product. The aerial illustrates several houses on the street that are legal non-conforming uses. The light industrial zoning has been in place at least since 1990. As the residential uses continue to decrease, the area will completely develop as an industrial park.

ACM Stringfellow stated that staff is of the opinion that the proposed use is not consistent with the growth in this area. Surrounding development is light industrial development that is reflected in the Comprehensive Plan Future Land Use plan map. The proposed amendment to the Comprehensive Plan and associated zoning change is not consistent with the future land use plan. Therefore, staff would recommend denial of the requested amendment of the proposed re-zoning change.

Commissioner Hill asked if the current Comprehensive plan is not in compliance with the new proposed amendment.

ACM Stringfellow stated that this legal nonconforming use is not in compliance with the vision of the City and it's not an area of the City wants to revert back to a single family neighborhood. The City changed the zoning to light industrial. The families can continue to live in the area but cannot make any additions to their homes since the area is zoned as light industrial.

Commissioner Aguilar asked if the proposed rezoning is not in compliance with the future land use plan but the proposed amendment to the future land use plan (FLUP) would allow the proposed zoning to become consistent.

ACM Stringfellow stated that if you recommend approval tonight then the change in the future land use plan would make this allowable otherwise it is not in compliance with the future land use plan. It is not in compliance with the vision of the City.

Commissioner Johnson asked, but there are already homes there with families with children, elderly people and they have lived there for quite some time. If this moves forward, what happens to those families?

ACM Stringfellow responded that this is where the legal nonconforming use comes into play as they have the right to be there since they are already a single family residential property. Should they vacate the property for more than 6 months, the family decides to sell or move out they could not add to their house and it would have to remain the same size. If residents attempted to obtain a permit the City's Building Official would inform them that they cannot do so due to the nonconforming use and the light industrial zoning classification.

Commissioner Johnson, asked so they have already started rebuilding.

ACM Stringfellow stated yes.

City Attorney, David Dodd stated that when the zoning changes on property, you cannot prolong it, you can't expand it and however the resident will be allowed to live there for the life of the building.

Commissioner Johnson asked about eminent domain and when the interest of the City outweighs what is residential.

CA Dodd stated that the City would not force the resident to move out. This is not an eviction notice, it is land use issues.

Vice Chair, Prothro stated that the families are grandfathered in and will be able to live there and no one will be forced out.

Commissioner Johnson asked what if a family member is deceased and the property is passed down to another family member.

CA Dodd stated that they will be able to pass the property down to another family member and live in the property and take ownership. However, if they have a non-conforming use, let's say you have a house and then the area becomes zoned commercial, light industrial or something else that's the nonconforming use. One of the ways this terminates is if it is used as a residence and most ordinances say after six months if you have not lived in the residence, it is considered abandoned. Lancaster has a history of tornadoes, and if a tornado destroys the house the nonconforming use ends, but we are not going to force anyone out.

Commissioner Hill asked that right now this is in conformance with our current comprehensive plan?

ACM Stringfellow responded, it is not in conformance.

Commissioner Hill also asked but the current comprehensive plan identifies this and will address this on the City's current comprehensive plan and future land use plan and its future vision.

ACM Stringfellow stated that the future vision for the City is light industrial.

Commissioner Aguilar asked if there are homes and other businesses in this area.

ACM Stringfellow stated, yes.

Vice Chair Prothro asked are there any additional questions for staff, and if none the applicant can come forward and present their request.

Jesus Garcia (his wife Iris Fuentes translated), 820 Bradberry, Dallas, Texas. He stated that he purchased the home from Ms. Sandra Duncan and did not know that the home was changed to commercial zoning. He bought it from Ms. Duncan.

Ms. Duncan came forward and stated that she was the previous owner of the home. She was unaware that the zoning changed to light industrial. She stated that she had received a lot of offers from people wishing to buy her property but she continued to pay her taxes and did not want to deal with it at the time. She decided to accept one of the many offers and apparently this family just wanted to move into her home and make a few revisions to the home for his wife and children.

Mr. Garcia stated that he wanted to bring his children out of Dallas and into Lancaster for a little bit of the country life. She accepted his offer and it wasn't a large amount for the property but it was a fair amount and he agreed because he paid it. After selling her home the Garcia's were getting ready to move in and she was in the hospital for over a month and received a call from Mr. Garcia's sister-in-law because they were told that they could not move into the property because it had been rezoned. Ms. Duncan stated that she was unaware of the zoning change and had not received any correspondence from the City. She stated even Mr. Frank Mejia wanted to purchase her home and he never said anything about a zoning change. Her mail box was up for over four months before she became ill and she doesn't recall any correspondence. She moved to another home around the corner and she didn't receive any correspondence from the City. She believes that situations like this are very unfair to everybody involved. When your property is being taken over people should be made aware of the changes. Mr. Garcia had paid for the property and she used the money from the sale in order to take care of some financial obligations. She was left in the dark and he cannot use the property in order to move his family in. Ms. Duncan stated that she understands the grandfathering clause but she doesn't understand why this family cannot move into the home.

Vice Chair, Prothro stated thank you Ms. Duncan.

Mr. Garcia stated that when he bought the property that he did not know that it had been rezoned and if he had known he would not have bought the property. The home that he is currently living in, he is renting and has not renewed a lease and they are charging him more money. He just wants to move into the property for his wife and children and wasn't aware of all this and wanted to know if he can move in.

ACM Stringfellow stated that property owner notifications were sent out to the residents as part of the rezoning request. This is customary with most rezoning requests to send out a 200 foot notification so that the properties that would be directly affected by the rezoning would be able to speak either in favor or against the matter. Only the ones that were sent out by the city will count in determining whether 20% are not in favor of the request, thus requiring a super-majority at the City Council consideration.

Mr. Garcia stated that he went to the City and they informed him to send out requests to his neighbors. Ms. Stringfellow stated that this is customary and staff will suggest going and talking to your neighbors to see if they are in agreement with the rezoning request. That would typically help the owner to gauge whether or not the folks around you would be supportive of the request. But we send out the legal notifications and if 20% of the property owners in that area disagree they would force the super-majority decision from City Council.

CA Dodd verified that 20% would force a super majority to Council.

ACM Stringfellow stated while the Garcia's may have went to their neighbors, only 20% of the 200 foot notification would count as a part of the rezoning request.

Mr. Garcia informed the Commission that he had signatures from the three houses and his current house makes four and the other three houses belong to Mr. Mejia.

CA Dodd asked how he got the support from the houses that he sent out.

Mr. Garcia stated that they visited the homes themselves.

CA Dodd stated that the law requires us to notify within 200 feet of the property according to the tax roll and that's who we notified which is under the law. He reiterated that 20% or more of the property owners that are in opposition would force the super majority.

Mr. Garcia stated that he wanted to live in the house for him and his family and Ms. Duncan stated that she is so sorry but if there is only one family within 200 feet and she doesn't understand why they can't move into the house. She stated that she understands but not fully.

Vice Chair, Prothro asked if there are any other questions for the staff. If there are no more persons wishing to speak in favor of this case. I give the floor to those wishing to speak against this case. All those wishing to speak in opposition on Item #3 – Z16-02 please come forward and state your name and address clearly for the record.

Walter Weaver, 4111 South Centre, Lancaster, Texas. He stated that he has lived in Lancaster for over 30 years and it has been light industrial for over 40 years and he believes that this area needs to move forward with industrial uses and it is not suitable for single family dwelling. It would improve the value of the property to light industrial and there are so many trucks in this area, it is unsafe for small children. He asked the applicants to please check the property and the zoning before purchasing property in the future.

ACM Stringfellow stated that we don't have the information as to when this area was rezoned. However, we would need additional time to get the information in order to share with the Commission.

Frank Mejia, 1500 West Main Street, Lancaster, Texas. He stated that he has lived in this area and has over seven notices on the properties on Katy Street. He has been on Katy Street for over 40 years and it has been light industrial for a long time. He states that he feels very sorry for these people but Mr. Garcia made two mistakes when he purchased the property. First, he didn't check the zoning for this property and second, he didn't check to see if you could do any repairs. He stated he has been buying all these properties in the area and he believes it not safe for the kids in this area.

Marco Mejia, 1515 Rebecca, Lancaster, Texas. He stated that we must take the emotions out of the situation and go with the Comprehensive plan and the current zoning. This area has been light industrial for as long as he can remember. He is afraid for the children that live in this area and their safety because of the trucks moving on the street. You should not mix children and trucking. He stated that he is very sorry for this family but they should have done their homework before purchasing the property.

CA Dodd stated to the Commission that the last zoning map was adopted in 2008 and it appears that this property has been light industrial for much longer than that.

Commissioner Johnson commented that she is sorry for the financial burden between the parties.

Commissioner Hill agrees with Commissioner Johnson and feels sorry for all parties.

Commissioner Aguilar asked if the other homes have families in them.

ACM Stringfellow stated that we cannot confirm that at this time. .

Vice Chair, Prothro stated if there are no more persons wishing to speak in opposition to this case, will entertain a motion to close the public hearing.

**A MOTION WAS MADE BY COMMISSIONER AGUILAR SECONDED BY COMMISSIONER HILL TO CLOSE THE PUBLIC HEARING.**

**AYES: PROTHRO, HILL, AGUILAR, JOHNSON**

**NAYS:**

The Public Hearing has been closed.

Vice Chair Prothro opened the discussion.

Commissioner Hill suggested to staff that the previous owners should have known and they should have done their homework in order to find what the vision of the City is and get out of the habit of spot zoning in the future in order to be aware.

Vice Chair Prothro stated his frustration on cases like this that did not adhere to the city's vision. We need to move ahead with what the Comprehensive plan states.

Commissioner Johnson commented that she is sorry for the financial burden between the parties and it's a lot of history on this street. It's a very unfortunate situation.

CA Dodd stated that with each family you will have nonconforming situations until the property is vacant or abandoned for six months.

Commissioner Aguilar agrees with Commissioner Hill and Commissioner Johnson that additional research should have been completed on this property and this situation is very unfortunate.

A MOTION WAS MADE BY COMMISSIONER AGUILAR AND SECONDED BY COMMISSIONER HILL TO DENY CASE Z16-02 IN ACCORDANCE WITH STAFF RECOMMENDATIONS.

AYES: PROTHRO, HILL, AGUILAR, JOHNSON

NAYS:

THE MOTION CARRIED UNANIMOUSLY.

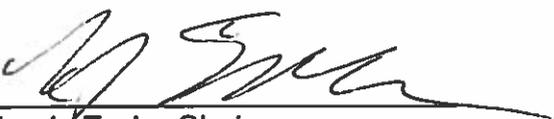
#### ADJOURNMENT

A MOTION WAS MADE BY COMMISSIONER AGUILAR AND SECONDED BY COMMISSIONER JOHNSON TO ADJOURN THE MEETING.

AYES: PROTHRO, HILL, AGUILAR, JOHNSON

NAYS:

THE MOTION CARRIED UNANIMOUSLY. THE MEETING ADJOURNED AT 7:59 PM.



Marvin Earle, Chair

ATTEST



Rona Stringfellow, Assistant City Manager